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Via Electronic Mail
Submitted in ECFS

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Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: LPFM Proceeding, MM Docket No. 99-25

Dear FCC:

We are submitting this letter to emphasize two concerns previously aired that deserve your immediate attention regarding the pending LPFM rulemaking:

- 1) We understand the FCC intends to release a rulemaking to determine the translator processing rules. If these rules stipulate that translator applicants can continue to process their applications as long as they do not preclude vacant LPFM channels in translator "dismiss" markets, this processing cannot occur until the LPFM technical rules have been modified. It has been perceived the FCC intends to request comments on LPFM technical rule changes after allowing translator processing to start. We believe this action would be in conflict with the Local Community Radio Act ("LCRA"), and be a misinterpretation of LPFM/translator technical rules:
 - A) LPFM service must currently respect I.F. spacing while translators under 100 watts do not. If the LPFM technical rules are changed to disregard I.F. spacing after translators are first processed, then translators would be taking secondary service channels in impacted "dismiss" markets before LPFM are allowed to do so. This arbitrary action would defy the reason the FCC designated a "dismiss" market in the first place, opening a procedural loophole for pending translator applicants.
 - B) Any impression that an LPFM technical rule change could occur after translator process because first and co-channel spacing stipulations prevent any changes in LPFM spectrum availability is a misinterpretation of FCC technical rules:
 - i. The LCRA allows for the spacing relationship between LPFM and translator service to be modified. By processing translators before the LPFM technical rules are changed, the public is effectively prohibited from commenting on the Docket regarding how the LCRA pertains to the spacing between Auction No. 83 translators and new LPFM facilities.
 - ii. LPFM spacing parameters are irrelevant to new translator proposals. Translators only reference LPFM contours for protection, and not

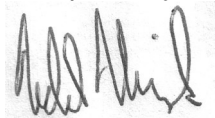
spacing parameters. This means translators are currently (legally) allowed to be short-spaced to LPFM facilities, or even the opposite case, require more than the minimum spacing rules to protect. If any aspect of HAAT, power, or directional antenna is modified in the next LPFM technical rulemaking, this will impact LPFM contours—but not the spacing—thus affecting the final relationship with translators. This engineering technicality requires any rules affecting LPFM contours to be finalized prior to any translator processing or reserved LPFM spectrum will be short changed.

iii. A translator can cover more than five times the area of an LPFM, yet the current rulemaking is attempting to balance mere equal numbers of each service.¹ In addition, since translators are able to be “short spaced” from LPFM services, but not vice-versa, this loophole deviates from Section 5(3) of the LCRA, which stipulates the secondary services to be equal in status. An LPFM technical rulemaking is thus needed before translator processing.

- 2) It is imperative the FCC retains LP-10 service in the densest markets where LP-100 service is not ample. The LCRA protects both LP-100 and LP-10 availability equally. In the absence of LP-100 availability in a “dismiss” market, we believe the FCC cannot arbitrarily ignore LP-10 in preference of granting translators. For example, central New York City does not have any open LP-100 channels. It does have open LP-10 channels.² However, under a processing scenario where translators are allowed to be proposed in “dismiss” markets where LP-100 channels cannot fit, the FCC would thus be allowing the translators in the market to go on to be processed while prohibiting LP-10 stations to be licensed—which could have fit into the market. Such a protocol in the New York market would mean virtually all the channels would be taken by translators. This loophole circumvents of the “dismiss” market designation that was supposedly enacted to enforce the stipulations of the LCRA. In the densest markets—ones without LP-100 availability—LP-10 must be protected due to the “needs of the local community”.³

Please take the above into consideration when deriving a rulemaking.

Respectfully,



Todd Urick
Tech Director, Common Frequency

cc: Mr. Peter Doyle, Chief, Audio Division
Mr. James Bradshaw, Deputy Chief, Audio Division

¹ Section 74.1235 defines the maximum wattage of a translator of 250 watts at 107 meters HAAT (as wattage logically decreases with increasing HAAT). Section 73.811 states the maximum facilities for an LPFM to be 100 watts at 30 meters HAAT. Translating to coverage area, this allows a translator to obtain a maximum of 5.5 times the coverage area compared to an LPFM facility.

² See Common Frequency's Dec. 27, 2011 ECFS filing, Docket 99-25, for example of New York center-city LPFM availability.

³ Per LCRA Section 5(2).